

What is the Religious Freedom Amendment?

The Religious Freedom Amendment (RFA), as contained in House Joint Resolution 78, is a proposed amendment to the United States Constitution, to read as follows:

To secure the people’s right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people’s right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion.*

HJR 78 provides a seven-year period for the states to ratify the RFA after approval by Congress. As prescribed in the Constitution (Article V):

- Each house of Congress must approve it by a two-thirds margin (no Presidential approval is involved, so it cannot be vetoed).
- The Legislatures of three-fourths of the states (38) must then ratify it (but within each Legislature only a simple majority vote is required, not a two-thirds margin).

Over 150 members of the House of Representatives are cosponsors. Many more are supporting it. More cosponsors are always desired and needed. Principal sponsor is Congressman Ernest J. Istook, Jr. (R-OK). The measure is bipartisan; the principal sponsor from the other party is Congressman Sanford D. Bishop, Jr. (D-GA).

Common Questions & Comments on the RFA, and Answers to Them!

1 We don’t need another constitutional amendment. Freedom of religion is already protected under the First Amendment. Students already can pray, and can meet in thousands of school Bible clubs. We already have the highest degree of religious liberty of anyplace in the world. This violates the constitutional principle of separation of church and state.

In recent decades, the Supreme Court and other courts have stripped away much of Americans’ rights to religious expression. The issue is not how much remains, but instead is how much we have lost.

In 1962, the Court struck down not only mandatory and government-composed prayers, but also prayers overlapping with a school activity, even, they said “when observance on the part of the students is voluntary.” (Engel v. Vitale) School Bible clubs have restrictions that don’t apply to other school clubs. (They cannot meet during school hours, or have an advisor, etc.) Many students have been punished for seeking to pray or otherwise express their faith. Also, in 1980 the Supreme Court ruled that the Ten Commandments can not be displayed in public school (Stone v. Graham).

Prayer and religious speech are restricted when other speech is not. A 1992 ruling (Lee v. Weisman) said a graduation prayer was unconstitutional, because students shouldn’t be asked to respect religious expression. In 1985 (Wallace v. Jaffree) the Court voided a moment of silence law, saying it was unconstitutional because it would have permitted silent prayer.

The phrase “separation of church and state” does not come from the Constitution. The Constitution simply affirms that America never should make any faith an official or required religion, as many other nations do.

2 This allows government to favor majority religions at the expense of others. One faith could be made the official religion, designating us a ‘Christian Nation’.

The RFA does not permit any faith to be given “official” status. The First Amendment’s text remains unchanged. (“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;...”) The RFA does not repeal this, but

* This differs from the language of HJR 78 as originally introduced. This change has been made and approved during the subcommittee markup (10/28/97). HJR 78 was approved by the full Judiciary Committee on Marchth4 1998

3

How would school prayer work? Who would pray? Who would compose the prayers? Would we have only Christian prayers? What about those who object and complain that they are a “captive audience”?

simply corrects its faulty interpretation by the courts.

The Bill of Rights was intended to protect not only minorities, but instead to protect **all** of us, minority **and** majority. The RFA guarantees that government must be truly neutral toward religion, rather than suppressing it under the pretense of being neutral. People of faith are being censored in the name of “freedom”!

The Supreme Court has ruled the Constitution does not permit the banning of symbols of hate, such as a Nazi swastika. Yet it is misused to bans symbols of love and hope, such as a cross, or a Nativity scene on public property. Government agencies have also banned religious items and symbols from workers’ desks, including Christian and non-Christian items.

We don’t ask “How could free speech work?” because we know that neither the courts nor our government should make that decision for us. The same is true with prayer and other religious speech—individuals and groups can work together however they see fit, so long as they don’t compel anyone else to take part. But contrary to what the ‘political correctness’ movement seeks, there is NO constitutional protection from hearing something we don’t like. In schools and public settings, we learn to be tolerant by respecting differing views.

The best model to follow is how we conduct the Pledge of Allegiance. Most students recite it, but some sit silently, and a few even leave the room. The Supreme Court ruled that no student can be compelled to say the Pledge, BUT those who object were not permitted to silence those who wish to say it. This is the best model for voluntary school prayer. Students who wish could rotate and take turns just as they do on everything else. It is something simple, just as it was in America’s schools for almost 200 years, except that government would not be permitted to select a prayer for students, nor require joining in any prayer.

4

Aren’t we just inviting cults, witches and Satanists to come into public schools and influence our children?

Just as free speech does not give a student the right to interrupt and change topics in class, the RFA does not permit disruptions. And it does not let outside groups come into our schools. Students who belong to highly-unpopular groups might want an equal chance to offer a prayer on extremely rare occasions at some school, but this is no reason to censor all prayers across America. It is extremely rare that we hear a truly offensive prayer; it would remain that way.

Those who object strongly may always leave rather than listen to somebody’s free speech, but equal treatment does not permit us to silence someone simply because we disagree, even in a public place. We only need to apply normal rules of orderly behavior, just as free speech does not allow someone to yell, “Fire!” in a crowded theater.

5

Children should be taught religion at home and church, not at school. They have plenty of time and opportunity to pray in other places; they don’t need to do so at school,

The RFA is not about teaching religious doctrine, but about permitting people to keep their faith as a normal part of everyday life. If we only have freedom of religion when we are at home or at church, we do not have true freedom of religion. We would never give up the right to free speech except at home, church, or some other limited places.

6

This is about money, not about prayer or religion. The federal Treasury should not be funding churches and religious groups, or vouchers for church schools.

We have a long history of cooperative efforts for the common good, and religious groups have a solid established role, which is now being attacked. Students attending church colleges and universities already qualify for GI Bill benefits and student loans, and they should. Faith-based charities have a better record of success than most in helping people recover from poverty, drug or alcohol abuse, or other problems. **RFA does not permit public funding of actual religious activity.**

